

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

IVAN JIMENEZ, *et al.*,

Appellants,

v.

DEPARTMENT OF HOMELAND
SECURITY, *et al.*,

Appellees.

Case No. 23-10073

* * * * *

APPELLANTS' UNOPPOSED MOTION TO REINSTATE APPEAL

Appellants hereby respectfully request that this appeal be reinstated and the attached Opening Brief be accepted. Appellees take no position on this Motion.

Appellants request this relief due to extraordinary circumstances. The undersigned was required to spend several hours on Friday, 8 September—the Brief's due date—with a car mechanic to resolve an intermittent and inconsistent issue from a traffic accident, which severely impacted his ability to complete work on the Brief by the midnight deadline for several reasons, not least of which was the fact that he did not have access to his computer or records for most of the day. He was able to complete the substantive work by approximately 1:00 AM on 9 September, but could not finalize the Brief until Saturday evening due to existing family responsibilities during the day. He filed the Brief at approximately 7:01 PM

on Saturday and immediately emailed Appellees' counsel to ascertain Appellees' position regarding an extension motion.

As soon as the undersigned received a response on Monday morning, he filed the extension motion, styled as "Appellants' Unopposed *Nunc Pro Tunc* Motion for Enlargement of Time Within Which to File Opening Brief." He apologizes to the Court for not requesting the extension before the due date had passed, but he did not have any reason to believe that he would need an extension until he arrived at the mechanic on Friday and discovered that what had been described as an easy problem to solve would take the better part of the day to resolve. Even then, he held out hope until the end that he could complete the work by midnight, and by the time he realized that this was impossible, it was too late to seek Appellees' position and reasonably expect a response, so he waited until he could do so before seeking more time.

Today the undersigned spoke with a case administrator in the Clerk's Office who advised him that the fundamental error he had made was characterizing his motion as an extension motion and not a motion for leave to file the Brief out of time, and that was why it was rejected. Accordingly, pursuant to 11th Cir. R. 42-2(e), Appellants now file this Motion and respectfully request that the dismissal be set aside and the attached Opening Brief be accepted as timely filed.

Date: September 13, 2023

Respectfully submitted,

/s/ Kelly B. McClanahan
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CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing filing contains 509 words, and was prepared in 14-point Times New Roman font using Microsoft Word 2016.

/s/ Kelly B. McClanahan
Kelly B. McClanahan, Esq.